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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF WASHINGTON**

9 United States of America,

10 Plaintiff,

11 v.

12 James Drew Bradley,

13 Defendant.

**No. 2:20-CR-00034-RMP**

**DEFENDANT'S MEMORANDUM**

*August 31, 2022 at 1:30 p.m.*

14 **I. Introduction**

15 COMES NOW Defendant, JAMES DREW BRADLEY by and through his  
16 attorney, Bevan J. Maxey and submits the following memorandum in support of  
17 enforcing the plea agreement reach herein. Mr. Bradley respectfully recommends  
18 the Court impose a sentence of 144 months' imprisonment followed by  
19 supervised release. This recommendation is based upon the memorandum of  
20 authorities set forth below, and upon the files and records in this case.  
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## II. Background

### A. Procedural Background

On March 3, 2020 the grand jury for the Eastern District of Washington returned a five-count indictment charging Mr. Bradley with Attempted Online Enticement, in violation of 18 U.S.C. § 2422 (b); Attempted Child Sex Trafficking, in violation of 18 U.S.C. §§ 1591(a)(1), (b)(1), 1594 (a); Attempted Production of Child Pornography, in violation of 18 U.S.C. § 2251 (a), (e); Receipt and Attempted Receipt of Child Pornography in violation of 18 U.S.C. §2252A(a)(2)(a), (b)(1); and Possession of Child Pornography in violation of 18 U.S.C. § 2252A(a)(5)(B), (b)(2).

### B. Offense Conduct

Mr. Bradley accepts and relies upon the offense conduct as it appears in his Rule 11(c)(1)(C) plea agreement.

### C. Plea Agreement Summary

Mr. Bradley's Rule 11(c)(1)(C) plea agreement with the Government is summarized as follows:

- The parties agree to recommend a sentence of 144 months' imprisonment followed by a term of supervised release.
- The parties agree they may make independent recommendations regarding the imposition of a fine.
- Mr. Bradley agrees neither the Court's imposition of a fine nor the Court's imposition of restitution are bases upon which he may withdraw from the plea agreement.

- 1       · The Government agrees to dismiss Counts Two through Five of the
- 2       indictment at the time of sentencing.
- 3       · The parties agree the **base offense level is 28**, pursuant to USSG §
- 4       2G1.3(c) and that with enhancements as outlined in the PSI (page 4) his
- 5       total offense level is 36. Provided Mr. Bradley accepts responsibility, his
- 6       **total adjusted offense is 33**.
- 7       · Mr. Bradley agrees to forfeit all rights and interests in the property outlined
- 8       in the plea agreement.

### 9                                   **III. Guideline Calculation**

10           The Court should adopt the terms of the parties bargained for Rule  
11   11(c)(1)(C) plea agreement, and calculate Mr. Bradley's total offense level as 33.  
12   A total offense level of 33 and Mr. Bradley's criminal history category of I results  
13   in a Guideline range of 135-168 months' imprisonment. The sentencing  
14   guideline recommendation is well within that range at 144 months.

### 15                                   **IV. 18 U.S.C § 3553**

#### 16                   **A.     Section 3553(a) factors supports the sentencing** 17                   **recommendation of 144 months.**

18           The district Court "must properly use the [Sentencing] Guideline calculation  
19   as *advisory* and start there ...." *U.S. v. Zavala*, 443 F.3d 1165, 1171 (9th Cir.  
20   2006) (emphasis added). The Sentencing Guideline is not to have greater weight  
21   than the other factors enumerated in 18 U.S.C. § 3553(a). *Zavala*, 443 F.3d at  
22   1171. The Sentencing Guideline calculation is just one factor when selecting the  
23   most appropriate sentence. *Id.* The other statutory factors include:  
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1 (1) the nature and circumstances of the offense and the history and  
2 characteristics of the defendant; (2) the need for the sentence imposed ...  
3 (3) the kinds of sentences available; (4) the sentencing ranges established  
4 by the USSG; (5) any pertinent policy statement issued by the USSG; (6)  
5 the need to avoid unwarranted sentence disparities among defendants  
with similar records or who have been found guilty of similar conduct; and  
(7) the need to provide restitution to any victims of the offense.

6 18. U.S.C. § 3553(a).

7 Section 3553(a) also directs the Court to impose a sentence “sufficient, but  
8 not greater than necessary” to comport with “the need for the sentence imposed  
9 to reflect the seriousness of the offense, to promote respect for the law ... to  
10 provide just punishment ... to afford adequate deterrence ... to protect the public  
11 ... and to provide the defendant with needed” training, care, or “other correctional  
12 treatment in the most effective manner.” *Id.*

13  
14 Here, Mr. Bradley is 65 years old. As the Court can see from the  
15 Presentence Investigation, Mr. Bradley comes to the Court with no countable  
16 criminal history. Mr. Bradley has had many things occur to him throughout his  
17 life which have contributed to his sexual malfunction. His mother remarried  
18 when he was 3 years old. His step father began to engage in a pattern of  
19 abuse. The long term effects of these types of occurrences cannot always be  
20 measured or immediately recognizable. Apparently, his mother was aware of his  
21 step father’s behavior and would send him away to other family members for his  
22 protection. Unfortunately, Mr. Bradley was then sent to an adult male by his  
23 mother which instead of providing safety, resulted in further abuse of Mr. Bradley.  
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1 Subsequently, as Mr. Bradley grew older the pattern of dysfunctional sexual  
2 activity reoccurred with a number of adult females who also took advantage of  
3 Mr. Bradley. Mr. Bradley joined the Navy at age 17 and was honorably  
4 discharged. Over his adult life, Mr. Bradley has suffered with bouts of anxiety  
5 and depression. These occurrences often lead to panic attacks. Mr. Bradley  
6 has not been able to maintain a consistent mental health treatment history. Since  
7 being incarcerated Mr. Bradley has received a consistent regiment of medication  
8 and is presently functioning emotionally far better than he has been able to in the  
9 past.  
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11  
12 At this point in his life, Mr. Bradley has been able to obtain a better insight  
13 in regards to his mental health needs and a better understanding of his behavior.  
14 A sentence of 12 years for a 65 year old man is sufficient but not greater than  
15 necessary to meet the criteria of 18 U.S.C. 3553. Through the stability of Board  
16 of Prisons Mr. Bradley will be able to obtain on a regular basis the medications  
17 necessary to maintain better mental health. Additionally, Mr. Bradley will be  
18 receiving a significant period of supervised release which will also provide an  
19 additional structure and supervision to assist him in maintaining appropriate  
20 mental health treatment and behavior.  
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22  
23 There is nothing to be gained by continued incarceration of Mr. Bradley  
24 after 12 years. Mr. Bradley will be a 77 year old person who can be monitored  
25 by a term of supervision and who no longer will be able to travel outside the

1 United States.

- 2  
3 1. *Consideration of the nature and circumstances of the offense*  
4 *and Mr. Bradley's history and characteristics supports a*  
5 *sentence of 144 months.*

6 As noted in the PSIR, Mr. Bradley has minimal criminal history. Notably, he  
7 has never been charged with or convicted of a sexual offense prior to this case.  
8 He does not have a history of sexual misconduct.

9 Mr. Bradley accepts full responsibility for his conduct and his actions in this  
10 case. He does not wish to shift blame or make excuses, however, he does wish  
11 to stress to the Court his sincere regret for the actions that led him here. At all  
12 times he has been cooperative with law enforcement. It is important to note that  
13 Mr. Bradley was very straight forward with law enforcement when they contacted  
14 him.

- 15  
16 2. *Mr. Bradley's sentencing recommendation is sufficient, but not*  
17 *greater than necessary, punishment.*

18 A sentence of 144 months' imprisonment followed by a term of supervised  
19 release satisfies the statute's contemplated punishment for this crime. If the  
20 Court sentences Mr. Bradley to 144 months' imprisonment, he will likely be 77-  
21 years-old by the time he is released from incarceration. A term of supervision in  
22 any amount over the 5 years mandatory term will ensure he lives the rest of his  
23 life as a law-abiding citizen. Any computer or digital device he may own will be  
24 subject to prior approval and monitoring. His travel will be restricted. He will have  
25 to complete sex offender treatment. Mr. Bradley's recommended sentence will

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3 protect the public, afford deterrence, provide just punishment, and provide Mr.  
4 Bradley the opportunity to seek the appropriate correctional treatment. A  
5 sentence of 144 months' imprisonment followed by supervised release is more  
6 than sufficient, but not greater than necessary, punishment for Mr. Bradley's  
7 crime.

### 8 **Nature of the Offense**

9  
10 The offense for which Mr. Bradley is charged is a serious offense. The  
11 agreed sentencing recommendation of the Government and the defendant is a  
12 serious sentence. There is no evidence that any hands on contact actually  
13 occurred between Mr. Bradley and any minor. There are other unproven  
14 allegations which are not part of the factual basis for the plea. There are some  
15 collateral sources which have attempted to provide information to the Court. If  
16 reviewed, the Court should consider the nature of the source.

### 17 **V. Conclusion**

18  
19 Based on the authorities discussed above, Mr. Bradley respectfully  
20 recommends the Court impose a sentence of 144 months' imprisonment followed  
21 by supervised release.

22  
23 Respectfully submitted this 30<sup>th</sup> day of August, 2022.

24  
25 s/ Bevan J. Maxey

Bevan J. Maxey  
Attorney for Defendant, Mr. James Bradley

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following, and/or I hereby certify that I have mailed by United States Postal Service the documents to the following non-CM/ECF participant(s):

David Herzog  
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*/s/ Bevan J. Maxey*

Bevan J. Maxey  
Attorney for Defendant